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Commentary on “What Should a Normative Theory of Argumentation Look Like?”

DAVID ZAREFSKY

Professor Bermejo-Luque addresses one of the stickiest problems in argumentation theory: how do we know what is a good argument? This is not exactly the way she puts the question in her excellent paper, but I believe that is what it quickly comes down to. And stating it this way might help us to see why it is such a sticky question.

The way Bermejo-Luque introduces the question is to inquire what is the purpose of argumentation. She answers with the conventional and unobjectionable statement that the purpose is the justification of claims, and she notes that most theories would concur with this statement or a variant of it. But that answer immediately raises the subsidiary question of what counts as justification. Noting that justification is not quite the same as proof (though it sometimes is called “rhetorical proof”), we might answer – still without flouting convention – that a claim is justified if there is good reason to accept it and no good reason to reject it. That of course devolves the question to “What counts as a good reason?” and we are now at the way I have framed it above.

Even if we had a normative theory of justification, Bermejo-Luque asserts, we still would not be able to answer the question of what counts as justification of a claim. Nor would we do so, she maintains, if we used terms such as “rational” or “reasonable,” which really are just synonyms for “justified.” All these terms are what she calls “unexplained explainers” (p. 1).

There are two easy ways out of the problem, but neither is satisfactory. One is to follow the path of deductive logic and equate justification with form alone. On this view, an argument is justified if and only if it is cast in the correct form for an argument of its type – no matter whether its premises or its conclusion is true, and no matter whether anyone believes it. The problems with this view for a theory of argumentation have been identified for nearly sixty years by Toulmin (1958) and others, and there is little need to spell them out again here. Suffice it to say that neither Bermejo-Luque nor, I suspect, anyone at this conference espouses that view. It would consign to irrationality just about all the work in informal logic, non-formal approaches to dialectic, and rhetorical studies of argumentation.

The other potential way out of the question, “What is a good argument?” is to convert a normative question into a descriptive one. “Good,” of course, seems to be an inherently normative term, suggesting that we determine what is a good reason by formulating a general theory of the good and then applying it to the process of reasoning. But why *must* the question be normative? Why can’t we understand a “good reason” to be “what arguers take to be a good reason”? We then would have converted argumentation into a descriptive-empirical study, as some of the Francophone theorists such as Marianne Doury and Ruth Amossy do. We might even feel grateful if we found, like van Eemeren, Garssen, and Meuffels (2009), that the working standards of justification employed by actual arguers are similar to the “rules” stipulated by normative theorists such as the pragma-dialecticians.

But this latter approach would collapse “justification” into a synonym for “convincingness” or “persuasion.” It would utterly relativize the concept and it would destroy the distinction between good and bad, sound and unsound argument. It would make of the statement, “That conclusion is not justified,” nothing more than a way of saying, “I do not like that

conclusion,” converting the logical into the psychological and heralding the return of logical positivism. It does not solve the problem of justification; it banishes it from our concern. Bermejo-Luque does not endorse this position. In fact, she notes approvingly (p. 2) that even rhetorical approaches are concerned with what makes argumentation intrinsically good, not merely successful. As I shall argue later, however, her conclusion functionally comes close to this positivist response. But first let us consider how she gets there.

Bermejo-Luque examines two approaches to justification. She calls the first *criteriological*, determining the goodness of an argument by positing a set of criteria and then stipulating that an argument achieving those criteria be considered justified, rational, and reasonable. (She uses these three terms virtually interchangeably (p. 3)). She associates the criteriological approach with several prominent theories of argumentation, including epistemological theories, pragma-dialectics, and virtue approaches.

The difficulty, Bermejo-Luque asserts, is that we are immediately led to where the criteria come from. They seem to be either empirical rules of thumb (“This has worked in the past”) or constitutive rules similar to the “rules” of logic. But when we begin to question their rationale, we are led into an infinite regress in which every reason argued for a certain normative standard could be questioned in turn. I think that Bermejo-Luque is right about this, but only if one stands *outside* the particular theoretical perspective on argumentation that is being assumed in order to derive the normative standard under scrutiny. If one works *within* a perspective, there is at its foundation a shared understanding about the perspective itself, an agreement which stops the infinite regress.

Let us take pragma-dialectics as an example. As I understand it, within the extended pragma-dialectical framework a justified argument would be one that adheres to the rules for a critical discussion as they are applied to the communicative activity type that embodies the argument. Why? Because the purpose of argumentation is to resolve a difference of opinion on the merits, and those rules are derived from that purpose. The arguer’s interest in strategic maneuvering is likewise constrained by that purpose. Now, one still can challenge the arguer’s effort at justification, with questions such as (1) “How do we know that the communicative activity type is what you say it is?” (2) “What do we mean by ‘on the merits?’” (3) “Who determines what ‘the merits’ are?” and so forth. These questions could generate vigorous argument, but I do not think they would lead to an infinite regress. That is because at bottom the arguers share a commitment to the purpose of the enterprise. When they get to that level, the would-be infinite regress stops because all arguers have accepted and implicitly maintain the claim about argumentation’s purpose.

We could reason in similar fashion about the informal logical perspective on argumentation, the rhetorical perspective, the normative pragmatic perspective, or any other particular approach to argumentation. Operating within a perspective implies accepting its basic assumptions. To accept Walton’s informal logic approach, for example, while questioning whether argumentation is dialogical, would make no sense. To accept a rhetorical perspective while denying that argumentation is addressed to an audience, would be equally absurd.

In his famous essay on the is-ought problem, Searle (1969) referred to assumptions of this type as *institutional facts*, to distinguish them from *brute facts*. Institutional facts are assumptions, beliefs, or values that function as facts for those within a given institution. Searle’s example is the institution of promising, and he concludes that within that institution, the statement “one should keep one’s promises” is a fact, because the institution of promising would make no sense were it not true. A person who does not believe in promising or denies that one

undertakes any obligations by uttering anything could ask “Why should one keep one’s promises?” and launch into an infinite regress, but a person who operates within the framework of promising will find such a question meaningless. “Of course one should keep one’s promises,” he or she would likely reply, “that’s just what promising *is*.” Each of the different basic perspectives on argumentation likewise functions as an institution whose basic assumptions function as facts within that institution.

What happens when adherents of different perspectives on argumentation engage each other? They start off with different core assumptions and may not have any basic agreement underlying their disagreement. They might first try to translate across their differing paradigms to see if there is an implicit agreement after all. When the pragma-dialectician meets the rhetorician, the former will maintain that the arguer’s dialectical obligations supersede his or her attempt to persuade an audience, while the latter will maintain that persuading an audience is how one knows one has met the dialectical obligations. These positions may seem incompatible. But maybe not: as I have argued elsewhere (Zarefsky 2006), if the universal audience [the rhetorician’s normative standard] actually existed, it would employ the rules of a critical discussion [the pragma-dialectician’s normative standard].

If, on the other hand, there really is no underlying agreement, then the arguers are likely to find themselves in a position that Fogelin (1985) and others have called “deep disagreement,” and they may indeed enact an infinite regress. What will prevent such an infinite regress is a rhetorical transformation of the scene, so that the arguers come to see the characterization of the occasion differently from before and can find a common ground where none was seen before. This approach sometimes can work, but sometimes not (Zarefsky 2012; Zarefsky, in press).

So what does this suggest about Bermejo-Luque’s first approach to justification, the criteriological? She has dismissed it as leading to infinite regress. What I have tried to show is that it leads to infinite regress only when the arguers proceed from different world views or frames of mind. In many cases, perhaps the majority, that is not the case. The arguers participate in a world-view anchored in common basic assumptions maintained either explicitly or implicitly. When they don’t, they may have options that would avoid infinite regress through reconceptualization of the scene. But they may not.

For those cases, which I suspect Bermejo-Luque believes are far more common than I do, she has an idea. This is her second approach to the problem of justification, which she labels *transcendental* (p. 7) rather than *criteriological*. She urges that we regard justification from the perspective of the activity of argumentation. In other words, she suggests that justification is what arguers *do*. She says that arguing is a kind of doing, and that whether it is justified or not to do it depends on our reasons and goals. What is to be justified, then, is our decision to engage in argumentation rather than the specific arguments we produce. Bermejo-Luque writes that giving reasons for believing that *p* is not the same as rendering justified the belief that *p*” (p. 7). But I am not sure why not. Why should one believe that *p* if it is the case that *p* has not been justified?

Bermejo-Luque writes that whatever counts as argumentation counts as an attempt at justifying a claim. This is sensible as far as it goes; except for the special case of an insincere arguer, one reasonably can assume that a person who argues in behalf of a proposition is attempting to justify it and may well believe that he or she has succeeded in doing so.

In my opinion, this proposal recapitulates the positivist approach to justification that I criticized above. If an arguer who says, “*p* is justified” is really saying only “I believe that *p*,” then the concept of justification reduces to the concept of “attempted justification” or “self-reported justification.” It eliminates justification as a normative concept and renders incoherent

what I would take to be a quite meaningful allegation, “You think that p is justified, but it is not.” If justification is changed from a normative concept to a purely empirical one, marked only by expressing statements in behalf of a claim, then it seems to me to be rather thin gruel indeed. We have defined away our problem rather than solving it, and have left ourselves without a way to distinguish better from worse arguments, having only the recourse of saying that arguments were more or less persuasive.

Professor Bermejo-Luque has called our attention to an extremely important theoretical problem, even though I believe that we must dig deeper to find the solution. Considering what the arguer regards as justification is a necessary first step, but I think it is not enough. We should add some sort of intersubjective agreement with the audience, because at a minimum the people to whom an argument is directed must share the view that what the arguer counts as justification is considered justification for them too. But even that is not enough, because it reduces argumentation to successful persuasion. I would include in the intersubjective agreement the argumentation critic, representing Perelman’s universal audience. So not only must the actual audience find an argument justified, but so too must a hypothetical audience of reasonable people unhindered by bias, prejudice, or self-interest. The argumentation critic evaluates an argument by asking, first, whether there is an obvious reason to withhold assent and, second, whether arguments of the given type usually have turned out to be without flaws.

If the arguer and the argumentation critic find an argument to be justified but the actual audience does not, then we have a case of a potentially sound argument that for whatever reason failed to persuade its audience, and then the task is to consider how the argument could be better fashioned to adapt it to its audience. If the arguer and actual audience find the argument justified but the argumentation critic does not, then we have a case of audience assent to an insufficiently justified claim. Most of what we call fallacies would fit within this category. If the arguer him- or herself does not believe the argument to be justified, regardless of what the audience and critic might think, then the arguer is violating the sincerity condition that attaches to the speech act of making a claim on another’s belief (unless irony, sarcasm, or some similar literary device is involved). This is a rough guide to where we may take our search for the meaning of justification beyond the starting point that Professor Bermejo-Luque has so ably provided. It reflects the rhetorical standpoint that all argumentation is addressed, but I think that anyone other than a pure formalist would share that notion to some degree. It, after all, is what allows informal logicians, pragma-dialecticians, rhetoricians, and others to come together on something resembling common ground.

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